

REMARKS

Claims 37-53 are pending in the application. Claims 37-53 should not be rejected under 35 USC § 103(a) as being unpatentable over US patent 5,884,032 to Bateman et al. (hereinafter Bateman) in view of US patent 4,052,570 to Sutton (hereinafter Sutton) in further view of US patent application 2001/0040887 to Shtivelman et al. (hereinafter Shtivelman) in further view of US patent 5,835,568 to Bass et al. (hereinafter Bass).

Applicant's claim 37 recite:

"...means for causing said automated dialer system to substantially immediately dial said telephone number to be dialed over said telephone line and ***for substantially immediately and continuously redialing said telephone number to be dialed each time said telephone number dialer detects a busy signal*** and for causing said automated dialer system to ***reschedule a regular telephone number each time said regular telephone number dialer detects a busy signal.***"

The prior rejection does not provide any suggestions or teaching of an automated dialer system to ***substantially immediately and continuously redial said telephone number*** (referencing a telephone number requesting help earlier in the claim) to be dialed each time said telephone number dialer detects a busy signal ***and*** said automated dialer system to ***reschedule a regular telephone number*** (referencing a telephone number different from the one requesting help) each time said regular telephone

number dialer detects a busy signal.

The Examination cites to Bateman in view of Sutton as disclosing a continuous redialing for calling backing a customer requesting help in the event that a busy signal is encountered. The Examination recites, "It would not be good business-sense to merely give up after unsuccessfully attempting to reach a customer only one time."

The Examination then cites to in further view of Bass as disclosing rescheduling a call if a telephone number different from the one requesting help detects a busy signal. The Examination ignores what in a previous motivation the Examination contends an individual with good business-sense would have done. According to the previous motivation an individual skilled in the art would have continuously redialed a call if a telephone number different from the one requesting help detects a busy signal. The logic of the Examination's argument does not support continuously redialing in one case but than rescheduling in another case.

Applicant's invention recognizes that an immediate and continuous redialing would require providing continuous use of an outbound telephone line and may waste resources, as well as other advantages. Applicant recognizes that an automated dialer system that makes the distinction would provide a useful system. The

Examination has not addressed the claim language in prior responses. In the "Response to Arguments" section of the Office Action dated 11/03/06:

With regard to the 1st paragraph, the Office Action contends that Bateman teaches processing a call back request. For sake of argument, accepting this assertion as true, than an individual skilled in the art would always use a call back request when a busy signal is detected for both said telephone number and a regular telephone number.

With regard to the 2nd Paragraph, Applicant understands that the Office Action's reference to Sutton was to assert what the Office Action contends was the old and well-known limitation of "continuous redialing" only, in the event of a busy signal encountered. However, following this same logic throughout the rejection an individual skilled in the art would have continuously redialed when a busy signal was detected for both said telephone number and a regular telephone number.

The Examination has not provided a disclosure, teaching, or suggestion as to why an individual skilled in the art at the time of the invention would be motivated to take one course of action when a call detects a busy signal and then deviate from this course of action when another call detects a busy signal. In view

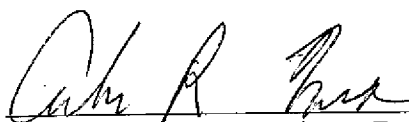
In re: Malcom B. Strandberg
Filed: September 28, 1998
Serial No.: 09/161,816
Page 13

foregoing, the prior rejection following a consistent train of logic does not support the rejection of the claims. The Examination must provide a new grounds of rejection and provide the Applicant with an opportunity respond to this new grounds or allow the claims.

Applicant believes that all of the pending claims are in condition for allowance and requests early and favorable action on the merits. The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

Malcom B. Strandberg

By 
Andrew R. Martin, Esq.
Registration No. 45,413
Attorney for Applicant(s)

BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

Date: 1-11-07